

Message Text

PAGE 01 STATE 161341

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DODE-00 PM-07 H-03 INR-10 NSAE-00 NSC-10 PA-03 RSC-01

PRS-01 SS-15 USIA-15 EB-11 TRSE-00 ACDA-19 OMB-01

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USOAS:AMBASSADOR JOVA

USOAS:RAPOOLE

ARA/CCA:JKING

ARA/CEN:DLAZAR

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FM SECSTATE WASHDC

TO AMEMBASSY SAN JOSE IMMEDIATE

INFO AMEMBASSY BRASILIA IMMEDIATE

AMEMBASSY CARACAS IMMEDIATE

AMEMBASSY BOGOTA IMMEDIATE

C O N F I D E N T I A L STATE 161341

E.O. 11652: GDS

TAGS: PFOR, OAS, CU, VE, BR

SUBJECT: VENEZUELAN INITIATIVE ON CUBA - "COSTA RICAN
ALTERNATIVE"

REF: STATE 158486

SAN JOSE 2879

SUMMARY: EMBASSY IS INSTRUCTED TO CONVEY OUR OBJECTIONS
TO COSTA RICAN FORMULA FOR LIFTING SANCTIONS AGAINST
CUBA. END SUMMARY

1. AS PROMISED PARA 6 REFTTEL, DEPARTMENT HAS GIVEN COSTA
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PAGE 02 STATE 161341

RICAN ALTERNATIVE CAREFUL STUDY. AS FACIO KNOWS, THE
UNITED STATES SEES NO CHANGE IN CUBA'S BEHAVIOR THAT
WOULD WARRANT LIFTING SANCTIONS. BEYOND OUR FUNDAMENTAL
POLITICAL OBJECTION WE ALSO PERCEIVE CONSIDERABLE DIFFICUL-

TIES WITH HIS FORMULA FROM STRICTLY LEGAL POINT OF VIEW.

2. WE RECOGNIZE THAT FACIO SEEKS TO PRESERVE INTEGRITY OF RIO TREATY AND THAT HIS PROPOSAL HAS THE ADVANTAGE OF PLACING THE CUBA SANCTIONS ISSUE IN THE PROPER FORUM, THE ORGAN OF CONSULTATION, RATHER THAN BEFORE THE PERMANENT COUNCIL. LATTER RECEIVED FROM THE 9TH MFM WITH RESPECT TO THIS MATTER ONLY THE AUTHORITY TO DISCONTINUE (BY A TWO-THIRDS VOTE) THE SANCTIONS AS SUCH TIME AS CUBA "SHALL HAVE CEASED TO CONSTITUTE A DANGER TO THE PEACE AND SECURITY OF THE HEMISPHERE". FOR THIS REASON VENEZUELAN PROPOSAL DOES NOT TRULY FALL WITHIN COMPETENCE OF PERMANENT COUNCIL.

3. HOWEVER, WE SEE NO LEGAL WAY TO ESCAPE REQUIREMENT THAT ANY MODIFICATION OR THE ELIMINATION OF SANCTIONS (WHICH WERE INSTITUTED BY THE ORGAN OF CONSULTATION IN 1964) UNDERTAKEN BY A SUBSEQUENT MEETING OF THE ORGAN OF CONSULTATION BE EFFECTED BY A TWO-THIRDS VOTE OF THE SIGNATORY STATES UNDER ARTICLE 17 OF THE RIO TREATY. THE COSTA RICAN PROPOSAL IN OUR VIEW WOULD NOT RESULT IN A "DECISION" OF THE ORGAN OF CONSULTATION. IT WOULD SIMPLY INDICATE THAT THERE IS INSUFFICIENT SUPPORT FOR PASSAGE OF A RESOLUTION EITHER FOR OR AGAINST THE SANCTIONS. UNDER THESE CIRCUMSTANCES THE DECISION (RESOLUTION I) OF THE 9TH MFM WOULD REMAIN IN FORCE, UNAFFECTED BY THE FACT THAT A RESOLUTION OR RESOLUTIONS OF A SUBSEQUENT MFM HAD BEEN PROPOSED AND DEFEATED.

4. FURTHERMORE, THE COSTA RICAN FORMULA WOULD IN EFFECT BE A REVERSAL OF THE PRESENT RIO TREATY VOTING REQUIREMENT AND WOULD PUT INTO PRACTICE WHAT THE MEXICANS ARE ADVOCATING AS A REFORM OF THE RIO TREATY--NAMELY THE TERMINATION OF MEASURES (READ SANCTIONS) WHEN THEY CEASE TO HAVE TWO-THIRDS SUPPORT. THIS WE COULD NOT AGREE TO.

5. WHILE IT IS NOT THE CENTRAL ISSUE, THE UNITED STATES
CONFIDENTIAL

PAGE 03 STATE 161341

ALSO CANNOT AGREE WITH FACIO'S CONTENTION THAT THE DELEGATION OF AUTHORITY TO THE PERMANENT COUNCIL UNDER RESOLUTION I OF THE 9TH MFM WAS SOMEHOW IMPROPER OR ILLEGAL. IN OUR VIEW THERE IS NOTHING IN THE RIO TREATY OR ANY OTHER INTER-AMERICAN INSTRUMENT WHICH COULD PROPERLY BE INTERPRETED AS PRECLUDING SUCH A DELEGATION. THE ORGAN OF CONSULTATION SHOULD AND DOES HAVE AMPLE FLEXIBILITY IN THE MEANS IT SELECTS TO IMPLEMENT ITS RESOLUTIONS, A FLEXIBILITY WHICH PRESUMABLY INCLUDES A LIMITED DELEGATION OF AUTHORITY TO THE PRINCIPAL POLITICAL ORGAN WITHIN THE ORGANIZATION OF AMERICAN STATES. THE LIMITED SANCTIONS IMPOSED AGAINST THE DOMINICAN REPUBLIC IN 1960 BY THE 6TH MFM WERE HANDLED IN THE

SAME WAY.

6. IN THESE CIRCUMSTANCES, WHILE COSTA RICAN ALTERNATIVE BEGINS WITH JURIDICALLY SOUND PREMISE THAT ORGAN OF CONSULTATION HAS THE ABILITY (UNLIKE PERMANENT COUNCIL) TO MODIFY AS WELL AS TO ELIMINATE SANCTIONS, THE END RESULT WOULD BE SITUATION IN WHICH ACTION TAKEN WOULD NOT COMPLY WITH VOTING PROVISIONS OF RIO TREATY. HENCE, NEITHER FORMULA WOULD PROVIDE FOR JURIDICALLY VALID "DECISION". IN ADDITION THEREFORE TO OUR OPPOSITION TO LIFTING CUBAN

SANCTIONS ON POLITICAL GROUNDS, WE WOULD HAVE TO OPPOSE ON JURIDICAL GROUNDS THESE OR ANY FORMULAS FOR DEALING WITH SANCTIONS THAT ARE NOT CONSISTENT WITH PROVISIONS OF RIO TREATY.

7. AS POINTED OUT IN REF A, IN DISCOURAGING FACIO WE DO NOT WISH TO PUSH HIM INTO THE ARMS OF THE VENEZUELAN AND, MOREOVER, ARE INTERESTED IN KEEPING UP CONSULTATIVE PROCESS. YOU SHOULD TELL HIM THEREFORE THAT WE APPRECIATE HIS GIVING US OPPORTUNITY TO COMMENT ON HIS VIEWS AND HOPE THAT WE CAN KEEP IN TOUCH. WE TRUST APPARENT VENEZUELAN EFFORT TO TWIST HIS ARM WILL, IF ANYTHING, MAKE HIM MORE RELUCTANT TO GO ALONG WITH THEIR FORMULA. ADDITIONALLY, YOU MIGHT WISH TO TAKE OPPORTUNITY PROVIDED BY CONVERSATION TO TELL HIM THAT DEPARTMENT IS INDEED INTERESTED IN HIS "POSITION PAPER" ON SPECIAL COMMITTEE REVIEW OF INTER-AMERICAN SYSTEM AND RIO TREATY
CONFIDENTIAL

PAGE 04 STATE 161341

(SAN JOSE'S 2786, NOTAL).

8. AS PREVIOUSLY INDICATED, OUR PRIMARY INTEREST IS IN MAINTAINING FACIO'S OPPOSITION TO VENEZUELAN INITIATIVE. YOU SHOULD KEEP THAT OBJECTIVE IN MIND IN DETERMINING TIMING AND SPECIFIC CONTENT OF YOUR APPROACH.

9. FOR BRASILIA: PLEASE CONVEY SUBSTANCE OF WHAT WE ARE SAYING TO FACIO TO APPROPRIATE BRAZILIAN AUTHORITIES. OBVIOUSLY, EITHER FORMULA WOULD BE UNDESIRABLE. WE COMMENTED EARLIER ON PARTICULAR DISABILITIES OF VENEZUELAN FORMULA, BUT WOULD NOTE THAT COSTA RICAN FORMULA HAS PARTICULAR DISADVANTAGE OF PURPORTING TO LIFT ENTIRELY INTERNATIONAL LEGAL BASIS FOR MAINTENANCE OF SANCTIONS BY THOSE COUNTRIES THAT WISH TO DO SO. YOU MAY ALSO TELL BRAZILIANS THAT OUR CURRENT READING IS THAT COLOMBIA LIKELY BUT NOT CERTAIN TO SUPPORT VENEZUELAN FORMULA AND THAT WE HAVE BEEN MAKING REPRESENTATIONS TO THEM. WE JUDGE IT WILL BE DIFFICULT FOR VENEZUELAN TO GET COSTA RICA TO BECOME THE TWELFTH VOTE. WE WILL CONTINUE TO CONSULT AND HOPE BRAZILIANS WILL GIVE US BENEFIT OF THEIR VIEWS ON DEVELOPING SITUATION AND BEST TACTICS.

10. FOR CARACAS: REFERENCE IN SAN JOSE'S 2879 TO FACIO'S STATING HE WOULD BE MOST INTERESTED IN OUR COMMENTS ON JURIDICAL POSITION REFERS TO FACIO'S OWN FORMULA AND NOT REPEAT NOT VENEZUELAN FORMULA. HE IS WELL AWARE OF OUR POSITION ON VENEZUELAN FORMULA. (WE ARE REPEATING SAN JOSE'S 2786 FOR YOUR BACKGROUND.) INASMUCH AS WE ARE TRYING TO DISCOURAGE FACIO'S ALTERNATIVE WE PREFER NOT TO RAISE HIS FORMULA (WHICH IS NOT FORMAL PROPOSAL) WITH EITHER VENEZUELAN OR COLOMBIANS. ROGERS

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